

By: Bailey Wright

§
§ **CHAMBERS COUNTY, TEXAS**

TO THE HONORABLE JUDGE OF SAID COURT:

B. This grand jury testimony is available to the state, if so desired, to impeach witnesses. It is fundamentally unfair for the state to deny defendant equal

access to this material for the impeachment and cross-examination of witnesses.

- C. This grand jury testimony is available to refresh witnesses' recollection, if necessary. It is fundamentally unfair to deny defendant equal access to this potential refresher material.
- D. The state has used this grand jury testimony to prepare its case. Zena Stephens ought to have equal access to the material to prepare a defense.
- E. The grand jury testimony contains exculpatory material discoverable under Brady v. Maryland, 373 U.S. 83 (1963).

- 3. If the witnesses who testified before the grand jury testify for the state at the trial, the state will be required to produce their grand jury testimony, however taken or recorded, or a transcription of such a statement for purposes of cross examination. Texas Rules of Evidence 615(f)(3). Because of the volume of material, counsel for Zena Stephens will be required to ask for a recess after each witness has testified if delivery is delayed until trial. Such recess must be granted "for a reasonable examination of such statement and for preparation for its use in trial." Texas Rules of Evidence 615(d). Such recesses will be prejudicial to Zena Stephens and will slow down the trial.
- 4. The information contained in the grand jury testimony is material and relevant to Zena Stephens's case.
- 5. The information contained in the grand jury testimony is not privileged, or, if

privileged, then the privilege must give way to the overriding interest Zena Stephens has in preparing and presenting this case and in order to preserve Zena Stephens's right to compulsory process, to confront and cross-examine witnesses, to effective assistance of counsel, to due process and to equal protection of the law, guaranteed by the above cited provisions of the United States and Texas Constitutions.

6. This motion is made well in advance of trial, in good faith, and not for the purpose of delay.
7. The grand jury transcripts are presently in possession and exclusive control of the state, and are not otherwise procurable by the defendant through the exercise of due diligence. The undersigned counsel is unaware of the identity and number of all witnesses who have testified before the grand jury, and whose testimony has been transcribed, but has filed motions for discovery of the same.
8. Zena Stephens requests that the grand jury testimony of all witnesses who so testified before the grand jury in connection with this and related cases be provided to counsel at the earliest possible opportunity. In the alternative, counsel requests that such testimony be provided immediately following the direct examination, and prior to the cross-examination, of all witnesses who testify for the State of Texas.
9. In the alternative, Zena Stephens moves that this Court order an in-camera hearing to determine whether the grand jury testimony requested by defendant be disclosed.

WHEREFORE, PREMISES CONSIDERED, Zena Stephens respectfully prays that this Court grant this motion in all things.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that on June 14, 2018, a true and correct copy of the above and foregoing document was served on the District Attorney's Office, Dallas County, by electronic service through the Electronic Filing Manager.

/S/ Russell Wilson II
Russell Wilson II